IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 11317 of 2004

Between:

M/s Visram Ice Factory Reptd. by its Proprietor Sri Bharat Kumar Parmar IDA, Nellimarla, Vizianagaram District

..... PETITIONER

AND

1 Divisional Engineer (Operation) Andhra Pradesh Eastern Power

Distribution Company Ltd, Vizianagarm .
2 West Divisional Engineer (Operation) Andhra Pradesh Eastern

Power Distribution Company Ltd., Vizianagaram
3 Asst. Accounts Officer /ERO Andhra Pradesh Eastern Power

Distribution Company Ltd., Vizianagaram

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction declaring the action of the 1st Respondent Proceedings No.DEF/O/VZM/Back Billing /D.No.2880/04, dt. 19/06/2004, as arbitrary, illegal, null and void and is against the principles of natural justice and norms of the Public Policy, and further directing to set aside the 1st respondent proceedings, and to conduct an enquiry or refer to Arbitrator in regard to the Billing of the petitioner concern meter bearing No.SC No.3847 of LT Category III.

Counsel for the Petitioner:MR.VENKATESWARA RAO GUDAPATI

Counsel for the Respondents: MR.M.SUBBA RAO,

Standing Counsel for APEPDCL

The Court made the following O R D E R:

This writ petition is filed seeking a declaration that the action of the 1st respondent in issuing the impugned proceedings dated 19-06-2004 as arbitrary and illegal.

The petitioner states that it has obtained the power supply in LT Category-III and the meter was installed on 26-12-2002. While so, the respondent staff conducted inspection of the service connection of the petitioner on 30-04-2003. Though the meter was found to be in order, the second respondent issued proceedings dated 11-05-2004 stating that petitioner is liable to pay a sum of Rs.6,28,419/- towards back billing for the period i.e., from 26-12-2002 to 27-04-2004. The petitioner raised its objections stating that it has nothing to do either with the installation of the meter or manufacture of the same and it is only the responsibility of the respondent-Corporation to see that proper meter is installed. According to the petitioner, the assessment made by the respondents is absolutely baseless, unsustainable and without any authority. However the 1st respondent issued the impugned proceedings dated 19-06-2004 confirming the back billing amount of Rs.6,28,419/-. The details of the assessment were also enclosed and the petitioner was called upon to pay the said sum of Rs.6,28,419/- within 15 days, failing which, the service connection will be disconnected without any further notice. Challenging the said proceedings, the present writ petition is filed.

This Court while directing Notice Before Admission by order dated 06-07-2004

granted interim stay of disconnection of power supply to the petitioner.

In the counter-affidavit filed on behalf of the 3rd respondent, it is contended, *inter alia,* that the petitioner made a representation to the Divisional Engineer (Operation) on 16-06-2004. However, since there was no reason to reduce the back billing, the assessment made earlier was confirmed and accordingly, the impugned proceedings dated 19-06-2004 were passed. It is further stated that against the proceedings passed by the Divisional Engineer, (Operation), the petitioner has already filed an appeal, on 21-06-2004, before the Superintending Engineer/Operation/Vizianagaram, who is the appellate authority, and the same is pending.

Having regard to the facts and circumstances of the case and since the appeal filed by the petitioner is pending before the statutory authority, I am of the view that it would be appropriate for the appellate authority to consider all the issues raised by the petitioner and to pass appropriate orders in accordance with law.

Accordingly, the writ petition is disposed of with a direction to the Superintending Engineer/Operation/Vizianagaram to dispose of the appeal pending on his file in accordance with law, after affording an opportunity of being heard to the petitioner, as expeditiously as possible, preferably, within a period of four weeks from the date of receipt of this order. Till the appeal is disposed of, interim order granted by this Court on 06-07-2004 not to disconnect the power supply to the petitioner shall continue.

Learned counsel for the petitioner states that the respondents have been levying surcharge on the alleged amount of arrears and the levy of the said surcharge is not justified since the stay granted by this Court is in operation. It is open to the petitioner to raise objections, if any, before the appellate authority, with regard to surcharge levied by the respondents, in which event, the appellate authority shall consider the same and pass appropriate orders, in accordance with law.

The writ petition is accordingly disposed of. No order as to costs.

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15-09-2004

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To

1 The Divisional Engineer (Operation) Andhra Pradesh Eastern

Power Distribution Company Ltd, Vizianagarm .
2 The West Divisional Engineer (Operation) Andhra Pradesh

Eastern Power Distribution Company Ltd., Vizianagaram
3 The Asst. Accounts Officer /ERO Andhra Pradesh Eastern Power

Distribution Company Ltd., Vizianagaram

4 Two C.D copies